



July 18, 2023

The Honorable Samuel Thumma
Chair, Determination of Death Committee
Uniform Law Commission
111 N. Wabash Avenue, Suite 1010
Chicago, Illinois 60602

Dear Commissioners:

Later this week, the Uniform Law Commission will meet to discuss proposed changes to the Uniform Determination of Death Act (UDDA) and hold a first reading of the revised Uniform Declaration of Death Act (rUDDA). On behalf of the American Society of Transplant Surgeons (ASTS) and the undersigned organizations, we write to request consideration not to move forward with the rUDDA. The ASTS is a medical specialty society representing approximately 2,000 professionals dedicated to excellence in transplantation surgery. Our mission is to advance the art and science of transplant surgery through patient care, research, education, and advocacy. The American Society of Transplantation (AST) is a medical specialty society representing over 4,800 members engaged in advancing the field of organ transplantation. NATCO is a membership organization of over 1,400 donation and transplant professionals dedicated to advancing education, promoting certifications, and furthering professional development within the field of donation and transplantation, to empower each individual to reach his or her highest potential. Together, we represent providers and experts in the transplantation space.

As currently written, the rUDDA has the potential to interfere with the lifesaving work of organ donation and transplantation. Specifically, the draft adds sections related to Notification, Time to Gather and Accommodation that are currently practiced widely and are part of the clinical care of the dying patient. Codifying these practices in law rather than accepting the current practice can lead to confusion, time delay, and dis-uniformity regarding the death declaration process within the hospital setting. Current research shows that organ donor families register high satisfaction with the process and with their decision to donate. The ambiguity that can result from the various local interpretations of the rUDDA will impede and complicate the work of hospitals, transplant professionals, and organ procurement organizations (OPOs) during a highly sensitive time when clear expeditious and compassionate communication is critical. For example, the rUDDA may open health care institutions up to litigation over issues such as whether or not the time provided to gather is "reasonable"; whether the surrogate has been provided with "reasonable" notification of an evaluation; and whether the accommodations made by an institution, any individual or surrogate concern, were sufficient. Ultimately, potential ambiguity has the possibility of casting a pall over the public's trust in the clinical and scientific death declaration process and could have grave impact on the lives of hundreds of thousands of people awaiting transplantation.

The proposed revisions appear to infringe on the compassionate practice of medicine and attempt to legislate complex clinician and family interactions that are better managed on an individualized basis.

We believe that there is a significant evolution in the science and in the techniques of resuscitation which may have prompted the reexamination the UDDA. We also believe that the science is still evolving and has not produced enough solid evidence to warrant a revision of the well-established legal frame for death declaration. Of particular concern is introducing determination of death deliberations into the state legislative process via introduction of the rUDDA will endanger uniform death declaration and has potential of impacting medical education, and organ transplantation in the United States. This exercise would place the vulnerable populations of patients we represent in danger, while offering little potential benefit. We would note that the successful adoption of the Revised Uniform Anatomical Gift Act in 2006 was made possible by broad support and advocacy by the transplant community as a whole, and the critical support of OPOs in particular.

Our concern is the health of those we serve. Changes in definitions and practice will have a chilling effect on hospital care, hospital costs and jeopardize the life of countless patients with end-stage organ disease of decades of life. We humbly urge you to vote against moving forward with the proposed rUDDA. We welcome a dialogue with you on this topic and look forward to further discussions.

Sincerely,

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President, American Society of Transplant Surgeons

Josh Levitsky, MD, MS, FAST
President, American Society of Transplantation

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